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**91st CONGRESS      }      SENATE      }**  
**2d Session**                  **REPORT**  
                                **No. 91-1092**

**CIVIL SERVICE RETIREMENT**

AUGUST 12 (legislative day, AUGUST 11), 1970.—Ordered to be printed

Mr. McGEE, from the Committee on Post Office and Civil Service,  
submitted the following

**R E P O R T**

[To accompany S. 437]

The Committee on Post Office and Civil Service, to which was referred the bill (S. 437) to amend chapter 83, title 5, United States Code, to eliminate the reduction in the annuities of employees or Members who elected reduced annuities in order to provide a survivor annuity if predeceased by the person named as survivor and permit a retired employee or Member to designate a new spouse as survivor if predeceased by the person named as survivor at the time of retirement having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

**STATEMENT AND JUSTIFICATION**

The Civil Service Retirement Act provides that when an employee retires he may elect to take a reduced annuity and provide a lifetime survivor benefit equal to 55 percent of his reduced annuity for his spouse in the event he dies before his spouse. The election which the employee makes at the time of his retirement is irrevocable and the reduction in annuity continues regardless of whether he or his spouse dies first. About 65 times out of 100, a male retiree dies before his wife dies; but more than one-third of the time, a male retiree will outlive his wife, and will continue to pay a reduction in his annuity to provide a survivor benefit for which there is, by law, no beneficiary.

The problem of providing adequate income for older citizens is national in scope. The committee believes that it is in the best interest of the Government and the civil service retirement system to amend existing law to permit a retired Federal employee to designate that his spouse at the time of his death shall receive a survivor annuity. The requirement that the spouse have been married to him at the time of his retirement should be eliminated.

This recommendation is consistent with previous policy established by the Congress in regard to survivor annuities. In 1966, Congress changed the Civil Service Retirement Act to eliminate the termination of survivor annuity in the case of a spouse who remarried after her husband's death; and since the enactment of that change, the provision was made partially retroactive to insure equitable treatment for all surviving spouses whose remarriage occurred on or after July 18, 1966.

S. 437, as introduced, would have permitted the retired employee to elect that his annuity be recomputed in the event his spouse died, thus treating him as though he had not made the election for a survivor annuity. Then if he subsequently remarried, his second spouse could become eligible for a survivor annuity when (1) she reaches 60 years of age, and (2) the retired employee repays to the civil service retirement and disability fund the total amount of money he has received from the fund as the result of the recomputation of his annuity.

The committee has amended the bill to provide that the election to designate a surviving spouse to receive a survivor annuity will continue to be an irrevocable decision. No recomputation may ever be made; but the retired employee will acquire an absolute right for a survivor annuity for the spouse to whom he is married at the time of his death so long as the marriage has lasted at least 2 years or the spouse is the parent of issue from that marriage.

The requirement for the spouse to attain age 60 has been eliminated. The requirement that the retired employee repay funds paid him on account of a recomputation has been eliminated. It is unnecessary because there will be no recomputation. To permit a recomputation would be an administrative burden upon the Civil Service Commission and would not increase the employee's retirement annuity by very much; but it would impose upon the retired employee who elected a recomputation and subsequently remarried an affirmative burden of repayment that in the most equitable of cases could be a great hardship.

A retired Federal worker entitled to an annuity of \$3,600 a year takes a reduction of \$90 a year to provide a survivor annuity. If his spouse dies the day after his retirement and he remarries 5 years later, he would be required to pay \$540 before his second spouse would be eligible for a survivor annuity. A retiree living on \$3,600 a year would find it very difficult to repay that large a sum, and thus the socially desirable goal of protecting older people could easily be thwarted.

In addition, an older retired employee should not be required to remember to notify the Civil Service Commission of his desire to designate a subsequent spouse to receive a survivor annuity. Administrative experience in the health insurance program exclusively applicable to Federal employees who retired before July 1, 1960, has proved that communication between this older group of citizens and the bureaucracy of the Federal Government is difficult.

The provisions of this liberalization of the retirement program will be partly retroactive. The opportunity to designate a subsequent spouse or the opportunity to designate a first spouse (if the marriage occurs after the retirement of the employee) will be extended to any employee or to any retired employee on the active or retirement rolls on the date of enactment. Thus, an employee who retired 20 years ago will have the opportunity to designate a subsequent spouse to

receive a survivor annuity even though the provisions of this act were not enacted until long after his retirement from the Federal service.

The surviving subsequent spouse of a retired Federal employee whose death occurred before the date of enactment of this act will not be entitled to any of the benefits of this act.

#### SURVIVOR ANNUITIES CARVED OUT OF SUPPLEMENTAL ANNUITIES

Present law provides that when a retiree is reemployed in Federal service under conditions not terminating his annuity, his salary is reduced by the amount of his annuity. While he is considered as being covered by the retirement law, no deductions are withheld from his salary during the period of reemployment. If he completes at least one, but less than 5 years of continuous full-time reemployment service, he is eligible to receive a supplemental annuity benefit computed upon salary and service during the reemployment period.

When this supplemental annuity provision was added to the Civil Service Retirement Act in 1956, experience indicated that the reemployment periods of retirees were relatively brief, and that the resulting benefits were not large enough to provide a significant increase in a spouse's potential survivor rate. The supplemental annuity was, accordingly, made a single-life benefit.

However, there are instances of a reemployed annuitant working for an extended period and earning a supplemental annuity large enough to provide a significant increase in the potential survivor annuity of his spouse.

While not creating a survivor annuity not previously provided upon original retirement, section 2 of the reported bill would amend the law to make the supplemental annuity available to increase the potential survivor rate of the retiree's spouse. The supplemental annuity would be reduced by 10 percent and the spouse would be entitled to an increased survivor benefit equal to 55 percent of the supplemental benefit. The reduction and the increased survivor annuity would be automatic unless the retiree elected to take the full single-life benefit.

The committee recognizes the value of service rendered by reemployed annuitants. In many cases, they are employees whose agencies request their continued service after reaching optional or mandatory retirement age. The supplemental annuity was created by Congress to reward such employees for their service after retirement.

#### DEPENDENT WIDOWERS

The committee recommends that the Civil Service Retirement Act be amended to remove the requirement that the husband of a female employee covered under the civil service retirement system be dependent upon his wife in order to qualify for a survivor annuity. There is no such requirement in the case of the husband of a retired female employee, and the female employee of the Government pays as much for her civil service retirement protection as does any male employee of the Government. In line with other recommendations insuring equal protection and benefits for women under Federal law, the civil service retirement system should be so amended.

AGENCY VIEWS

Following is a letter from the Honorable Robert E. Hampton, Chairman of the U.S. Civil Service Commission, on S. 437, expressing the Commission's views on the bill and recommending enactment of legislation similar to S. 437 as amended by the committee.

U.S. CIVIL SERVICE COMMISSION.  
Washington, D.C., August 7, 1970.

Hon. GALE W. McGEE,  
*Chairman, Committee on Post Office and Civil Service,*  
*U.S. Senate.*

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on S. 437, a bill to amend chapter 83, title 5, United States Code, to eliminate the reduction in the annuities of employees or Members who elected reduced annuities in order to provide a survivor annuity if predeceased by the person named as survivor and permit a retired employee or Member to designate a new spouse as survivor if predeceased by the person named as survivor at the time of retirement.

Under the civil service retirement law, the annuity of a retiring married employee is automatically reduced in order to offset a portion of the cost of providing survivor benefits for his wife (or her husband), unless at time of retirement the employee elects in writing to receive an unreduced single-life annuity. The employee's decision in this matter is irrevocable; the law does not permit him either to name another person for the survivor annuity or to change his reduced survivor annuity to an unreduced single-life annuity should the named spouse predecease him, or should the marriage relationship upon which the survivor right was based be dissolved.

S. 437, as we construe it, proposes to add to the survivor annuity option the proviso that if the named spouse predeceases the retiree—

(1) The retiree's reduced survivor annuity would be recomputed, under the law in effect at the time he retired, as though he had not elected survivor benefits; and

(2) Upon remarriage, the retiree could again elect a reduced annuity with survivor benefits to his (or her) new spouse. The survivor benefits to the new spouse would also be computed under the law in effect when the retiree retired. This election could not be made, however, until the new spouse attained age 60 and the aggregate additional amount paid to the retiree as a result of the recomputation in (1) above had been refunded to the civil service retirement and disability fund.

The recomputation and reelection process could be repeated as often as the designated spouse predeceases the retiree and he remarries. However, a divorce from the designated spouse would not permit the retiree's annuity to be recomputed, nor could he elect survivor benefits for his new spouse, should he remarry.

S. 437 would apply to people retired both before and after its enactment, including people retired whose spouses had died before enactment. In the case of a retiree predeceased by a designated spouse after enactment, the recomputations in (1) or (2) above would be effective, respectively, the first day of the month beginning after the spouse's

death or the first day of the month beginning after the new spouse attains age 60.

Insofar as cost is concerned, enactment of S. 437 would increase the unfunded liability of the civil service retirement and disability fund by \$1,008.4 million. Under the financing provisions of Public Law 91-93, approved October 20, 1969, this amount would be amortized in 30 annual installments of approximately \$53.1 million. The first \$53.1 million would be payable in fiscal year 1971 if the bill is enacted before June 30, 1971. The normal cost of providing retirement benefits would be increased by 0.10 percent from 13.98 percent to 14.08 percent.

The Commission finds no justification for the provision of S. 437 that would eliminate the reduction in the annuity of a retiree who elected a survivor annuity, if predeceased by the person named as survivor. The reduction originally was equal to the full actuarial cost of the survivor protection computed over the lifetime of the retiree, taking into account that there will be instances where the survivor benefit will never be payable due to intervening death or divorce of the named survivor. As shown in the following table, though, this reduction has been decreased five times so that it now equals only a fraction of the cost of the survivor protection.

Retired between—	Reduction in retiree's annuity	Benefit to spouse named at retirement
Jan. 1, 1940 to Mar. 31, 1948.....	Full actuarial.....	
Apr. 1, 1948 to Sept. 29, 1949.....	10 percent, plus $\frac{1}{4}$ of 1 percent for any years spouse under age 60.	50 or 100 percent of retiree's reduced annuity.
Sept. 30, 1949 to Sept. 30, 1956.....	5 percent of 1st \$1,500 and 10 percent of remainder, plus $\frac{1}{4}$ of 1 percent for any years spouse under age 60.	50 percent of retiree's unreduced annuity. Do.
Oct. 1, 1956 to Oct. 10, 1962.....	2½ percent of 1st \$2,400 and 10 percent of any added amount used as base for survivor benefit.	50 percent of the amount used as survivor base.
Oct. 11, 1962 to present.....	2½ percent of 1st \$3,600 and 10 percent of any added amount used as base for survivor benefits.	55 percent of the amount used as survivor base.

The Commission finds no justification for restoring a single life annuity to a retiree whose spouse has predeceased him, but concurs in principle with the idea of extending the survivor protection to the new spouse of a retired employee or Member if the retiree's marriage to the spouse named as survivor at the time of retirement is dissolved. The socioeconomic need to provide survivor protection for the new spouse is no less than the need to protect the former spouse. However, we would suggest certain modifications in the provisions included in S. 437 that are intended to effect this objective.

As noted above, S. 437 would permit the election of a new spouse in cases where the designated spouse predeceases the retiree, the new spouse has attained the age of 60, the aggregate additional amount paid to the retiree as a result of eliminating the reduction in the retiree's annuity has been refunded, and the retiree's annuity is once again reduced.

We believe—

(1) Effective on enactment, the substitution of the new spouse should be automatic, and without regard to age. If, as we recommend, the retiree's annuity is (as under present law) continued

at the reduced rate following the death of the spouse initially designated as the potential recipient of survivor benefits, the substitution of a new spouse would not necessitate the refund and reduction contemplated under S. 437. Therefore, the automatic substitution of a new spouse could not adversely affect the retiree insofar as the amount of his annuity is concerned. In addition, automatic substitution would simplify administration and assure the new spouse the same survivor protection that had been provided the former spouse.

(2) Provision for a spouse acquired after retirement should be effective when the marriage has lasted at least 2 years or a child has been born of the marriage. This proposed change is consistent with the automatic survivor annuity provision, already in the retirement law, for spouses of deceased employees. Its purpose is to deter "deathbed" marriages in order to provide annuity to the new spouse.

(3) The substitution of the new spouse should be permitted when the former marriage ends because of divorce or annulment, as well as because of death. The reason why the former marriage ended has no bearing on the need for providing survivor protection to a new spouse.

(4) Where a spouse acquired after retirement is, and upon marrying the retiree remains, entitled to a survivor benefit under this or another retirement system for Government employees, she should be paid an annuity under this provision only if she elects to take it instead of the survivor benefit she already is entitled to.

(5) Provision should be made for the protection of a spouse acquired after retirement by an annuitant who was unmarried at the time he retired.

(a) Where an unmarried retiree elected annuity without survivor benefit, he should be permitted to change his election within 1 year after his marriage, with a reduction in his annuity becoming effective on the first of the month following receipt of his election in the Commission;

(b) Where an unmarried retiree elected annuity with a survivor benefit to a person having an insurable interest in his life, he should similarly be permitted to change his election within 1 year after his marriage, with the reduction in his annuity on account of his original election to be recomputed under the regular option formula, effective on the first of the month following receipt of his election in the Commission.

In summary, the Commission—

(1) Finds no justification for restoring a single-life annuity to a retiree whose spouse has predeceased him.

(2) Agrees in principle with the idea of extending the original survivor election to a new spouse, but recommends that, in lieu of the provision in S. 437, survivor protection be automatically extended to a spouse acquired after retirement where the marriage has lasted at least 2 years or produced a child.

Accordingly with the changes discussed above the Commission recommends enactment of S. 437.

The recommendations above would increase the unfunded liability of the civil service retirement fund by \$1,077.4 million which would be

amortized in 30 annual installments of approximately \$56.1 million (beginning with fiscal year 1971 if the provision is enacted before July 1, 1971). The normal cost of the retirement system would be increased by 0.11 percent, to 14.09 percent.

We note there are certain technical and conforming changes that should be made in the text of S. 437. Our technical staff will be available to advise on this if the committee so desires.

The Office of Management and Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON, *Chairman.*

#### CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic):

#### Chapter 83, Title 5, United States Code

\* \* \* \* \*

##### § 8339. Computation of annuity

(a) Except as otherwise provided by this section, the annuity of an employee retiring under this subchapter is—

- (1)  $1\frac{1}{2}$  percent of his average pay multiplied by so much of his total service as does not exceed 5 years; plus
- (2)  $1\frac{3}{4}$  percent of his average pay multiplied by so much of his total service as exceeds 5 years but does not exceed 10 years; plus
- (3) 2 percent of his average pay multiplied by so much of his total service as exceeds 10 years.

However, when it results in a larger annuity, 1 percent of his average pay plus \$25 is substituted for the percentage specified by paragraph (1), (2), or (3) of this subsection, or any combination thereof.

(b) The annuity of a Congressional employee, or former Congressional employee, retiring under this subchapter is computed under subsection (a) of this section, except, if he has had—

- (1) at least 5 years' service as a Congressional employee or Member or any combination thereof; and
- (2) deductions withheld from his pay or has made deposit covering his last 5 years of civilian service;

his annuity is computed, with respect to his service as a Congressional employee, his military service not exceeding 5 years, and any Member service, by multiplying  $2\frac{1}{2}$  percent of his average pay by the years of that service.

(c) The annuity of a Member, or former Member with title to Member annuity, retiring under this subchapter is computed under subsection (a) of this section, except, if he has had at least 5 years' service as a Member or Congressional employee or any combination thereof, his annuity is computed with respect to—

- (1) his service as a Member and so much of his military service as is creditable for the purpose of this paragraph; and  
(2) his Congressional employee service;  
by multiplying  $2\frac{1}{2}$  percent of his average pay by the years of that service.
- (d) The annuity of an employee retiring under section 8336(e) of this title is 2 percent of his average pay multiplied by his total service.
- (e) The annuity computed under subsections (a)-(d) of this section may not exceed 80 percent of—  
(1) the average pay of the employee; or  
(2) the greater of—  
(A) the final basic pay of the Member; or  
(B) the final basic pay of the appointive position of a former Member who elects to have his annuity computed or recomputed under section 8344(b)(1) of this title.
- (f) The annuity of an employee or Member retiring under section 8337 of this title is at least the smaller of—  
(1) 40 percent of his average pay; or  
(2) the sum obtained under subsections (a)-(c) of this section after increasing his service of the type last performed by the period elapsing between the date of separation and the date he becomes 60 years of age.
- (g) The annuity computed under subsections (a), (b), and (e) of this section for an employee retiring under section 8336(d) of this title is reduced by  $\frac{1}{2}$  of 1 percent for each full month the employee is under 55 years of age at the date of separation. The annuity computed under subsections (c) and (e) of this section for a Member retiring under the second or third sentence of section 8336(f) of this title or the third sentence of section 8338(b) of this title is reduced by  $\frac{1}{2}$  of 1 percent for each full month not in excess of 60 months, and  $\frac{1}{6}$  of 1 percent for each full month in excess of 60 months, the member is under 60 years of age at the date of separation.
- (h) The annuity computed under subsections (a)-(g) of this section is reduced by 10 percent of a deposit described by section 8334(e) of this title remaining unpaid, unless the employee or Member elects to eliminate the service involved for the purpose of annuity computation.
- (i) The annuity computed under subsections(a)-(h) of this section for a married employee or Member retiring under this subchapter, or any portion of that annuity designated in writing for the purpose of section 8341(b) of this title by the employee or Member at the time of retirement, is reduced by  $2\frac{1}{2}$  percent of so much thereof as does not exceed \$3,600 and by 10 percent of so much thereof as exceeds \$3,600, unless the employee or Member notifies the Civil Service Commission in writing at the time of retirement that he does not desire his spouse to receive an annuity under section 8341(b) of this title.
- (j)(1) At the time of retiring under section 8336 or 8338 of this title, an unmarried employee or Member who is found to be in good health by the Commission may elect a reduced annuity instead of an annuity computed under subsections (a)-(h) of this section and name in writing an individual having an insurable interest in the employee or Member to receive an annuity under section 8341(c) of this title after the death of the retired employee or Member. The annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual named is younger

than the retiring employee or Member. However, the total reduction may not exceed 40 percent.

(2) An employee or Member who is unmarried at the time of retiring or an annuitant who is unmarried at the time of separation and who later marries may, within one year after he marries, select a reduced annuity with benefit to surviving spouse as provided in section 8341(b). His annuity is recomputed and paid under the provisions of section 8339(i) effective the first day of the month after his written election is received in the Civil Service Commission. An election under this paragraph voids prospectively any election previously made under paragraph (1) of this subsection.

(k) The annuity computed under subsections (a)-(j) of this section for an employee who is a citizen of the United States is increased by \$36 for each year of service in the employ of—

(1) the Alaska Engineering Commission, or The Alaska Railroad, in Alaska between March 12, 1914, and July 1, 1923; or

(2) the Isthmian Canal Commission, or the Panama Railroad Company on the Isthmus of Panama between May 4, 1904, and April 1, 1914.

(l) In determining service for the purpose of computing an annuity under each paragraph of this section, 45 per centum of each year, or fraction thereof, of service referred to in section 8332(b)(6) which was performed prior to the effective date of the National Guard Technicians Act of 1968 shall be disregarded.

(m) In computing any annuity under subsections (a)-(d) of this section, the total service of an employee who retires on an immediate annuity or dies leaving a survivor or survivors entitled to annuity includes, without regard to the limitations imposed by subsection (e) of this section, the days of unused sick leave to his credit under a formal leave system, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter.

#### § 8340. Cost-of-living adjustment of annuities

(a) Effective December 1, 1965, each annuity payable from the Fund having a commencing date before December 2, 1965, is increased by—

(1) the percent rise in the price index, adjusted to the nearest  $\frac{1}{10}$  of 1 percent, determined by the Civil Service Commission on the basis of the annual average price index for calendar year 1962 and the price index for the base month of July 1965; plus

(2)  $6\frac{1}{2}$  percent if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred before October 2, 1956, or  $1\frac{1}{2}$  percent if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred after October 1, 1956.

Each annuity payable from the Fund (other than the immediate annuity of an annuitant's survivor or of a child entitled under section 8341(e) of this title) having a commencing date after December 1, 1965, but before January 1, 1966, is increased from its commencing date as if the annuity commencing date were December 1, 1965. Each survivor annuity authorized by—

(A) section 8 of the Act of May 29, 1930, as amended to July 6, 1950; or  
(B) section 2 of the Act of June 25, 1958 (72 Stat. 219);

is increased by any additional amount required to make the total increase under this subsection equal to the smaller of 15 percent or \$10 a month.

(b) Each month the Commission shall determine the percent change in the price index. Effective the first day of the third month that begins after the price index change equals a rise of at least 3 percent for 3 consecutive months over the price index for the base month, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by 1 percent plus the percent rise in the price index (calculated on the highest level of the price index during the 3 consecutive months) adjusted to the nearest  $\frac{1}{10}$  of 1 percent.

(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (except a child entitled under section 8341(e) of this title), which annuity commences the day after the death of the annuitant and after the effective date of the first increase under this section, shall be increased by the total percent increase the annuitant was receiving under this section at death. However, the increase in a survivor annuity authorized by section 8 of the Act of May 29, 1930, as amended to July 6, 1950, shall be computed as if the annuity commencing date had been the effective date of the first increase under this section.

(2) For the purpose of computing the annuity of a child under section 8341(e) of this title that commences on or after the first day of the first month that begins on or after the date of enactment of the Civil Service Retirement Amendments of 1969, the items \$900, \$1,080, \$2,700, and \$3,240 appearing in section 8341(e) of this title shall be increased by the total percent increases allowed and in force under this section on or after such day and, in case of a deceased annuitant, the items 60 percent and 75 percent appearing in section 8341(e) of this title shall be increased by the total percent allowed and in force to the annuitant under this section on or after such day.

(d) This section does not authorize an increase in an additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar. However, the monthly installment shall after adjustment reflect an increase of at least \$1.

(f) Effective September 1, 1966, or on the commencing date of annuity, whichever is later, the annuity of each surviving spouse whose entitlement to annuity payable from the Fund resulted from the death of—

(1) an employee or Member before October 11, 1962; or

(2) a retired employee or Member whose retirement was based on a separation from service before October 11, 1962; is increased by 10 percent.

#### § 8341. Survivor annuities

(a) For the purpose of this section—

(1) "widow" means the surviving wife of an employee or Member who—

- (A) was married to him for at least 2 years immediately before his death; or  
(B) is the mother of issue by that marriage;
- (2) "widower" means the surviving husband of an employee or Member who—  
(A) was married to her for at least 2 years immediately before her death; or  
(B) is the father of issue by that marriage; and
- (3) "dependent widower" means a widower who—  
(A) is incapable of self-support because of mental or physical disability; and  
(B) received more than half his support from the employee or Member; and
- (4) (3) "child" means—  
(A) an unmarried child under 18 years of age, including (i) an adopted child, and (ii) a stepchild or recognized natural child who lived with the employee or Member in a regular parent-child relationship;  
(B) such unmarried child regardless of age who is incapable of self-support because of mental or physical disability incurred before age 18; or  
(C) such unmarried child between 18 and 22 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

*Surviving his wife as a widow or  
widower until section 8339(j)*

For the purpose of this paragraph and subsection (e) of this section, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while he is regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if he shows to the satisfaction of the Civil Service Commission that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

- (b) If an employee or Member dies after having retired under this subchapter and is survived by a spouse to whom he was married at the time of retirement, the spouse is entitled to an annuity equal to 55 percent of an annuity computed under section 8339 (a)–(h) of this title as may apply with respect to the annuitant, or of such portion thereof as may have been designated for this purpose under section 8339(i) of this title, unless the employee or Member has notified the Commission in writing at the time of retirement that he does not desire his spouse to receive this annuity. The annuity of the spouse commences on the day after the retired employee or Member dies. This annuity and the right thereto terminate on the last day of the month before—

- (1) the spouse of a retired employee dies, or remarries before becoming 60 years of age; or  
(2) the spouse of a retired Member dies or remarries.  
(c) The annuity of a survivor named under section 8339(j) of this title is 55 percent of the reduced annuity of the retired employee or

*any*

Member. The annuity of the survivor commences on the day after the retired employee or Member dies. This annuity and the right thereto terminate on the last day of the month before the survivor dies.

(d) If an employee or Member dies after completing at least 18 months of civilian service, the widow or [dependent] widower of the employee or Member is entitled to an annuity equal to 55 percent of an annuity computed under section 8389 (a)-(e) and (h) of this title as may apply with respect to the employee or Member, except that in the computation of the annuity under such section, the annuity of the employee or Member shall be at least the smaller of (i) 40 percent of his average pay, or (ii) the sum obtained under such section after increasing his service of the type last performed by the period elapsing between the date of death and the date he would have become 60 years of age. The annuity of the widow or [dependent] widower commences on the day after the employee or Member dies. This annuity and the right thereto terminate on the last day of the month before—

- (1) the widow or [dependent] widower dies;
- [2] the dependent widower becomes capable of self-support;]
- [3] (2) the widow or [dependent] widower of an employee remarries before becoming 60 years of age; or
- [4] (3) the widow or [dependent] widower of a Member remarries.

(e)(1) If any employee or Member dies after completing at least 18 months of civilian service, or an employee or Member dies after retiring under this subchapter, and is survived by a spouse, each surviving child is entitled to an annuity equal to the smallest of—

- (A) 60 percent of the average pay of the employee or Member divided by the number of children;
- (B) \$900; or
- (C) \$2,700 divided by the number of children;

subject to section 8340 of this title. If the employee or Member is not survived by a spouse, each surviving child is entitled to an annuity equal to the smallest of—

- (i) 75 percent of the average pay of the employee or Member divided by the number of children;
- (ii) \$1,080; or
- (iii) \$3,240 divided by the number of children;

subject to section 8340 of this title.

(2) The annuity of a child under this subchapter or under the Act of May 29, 1930, as amended from and after February 28, 1948, commences on the day after the employee or Member dies, or commences or resumes on the first day of the month in which the child later becomes or again becomes a student as described by subsection (a) [4] (3) of this section, if any lump sum paid is returned to the Fund. This annuity and the right thereto terminate on the last day of the month before the child—

- (A) becomes 18 years of age unless he is then a student as described or incapable of self-support;
- (B) becomes capable of self-support after becoming 18 years of age unless he is then such a student;
- (C) becomes 22 years of age if he is then such a student and capable of self-support;

(D) ceases to be such a student after becoming 18 years of age unless he is then incapable of self-support; or

(E) dies or marries;

whichever first occurs. On the death of the surviving spouse or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the spouse or child had not survived the employee or Member.

(f) If a Member heretofore or hereafter separated from the service with title to deferred annuity from the Fund hereafter dies before having established a valid claim for annuity and is survived by a spouse to whom married at the date of separation, the surviving spouse—

(1) is entitled to an annuity equal to 55 percent of the deferred annuity of the Member commencing on the day after the Member dies and terminating on the last day of the month before the surviving spouse dies or remarries; or

(2) may elect to receive the lump-sum credit instead of annuity if the spouse is the individual who would be entitled to the lump-sum credit and files application therefor with the Commission before the award of the annuity.

(g) In the case of a surviving spouse whose annuity under this section is terminated after July 18, 1966, because of remarriage before becoming 60 years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, if—

(1) the surviving spouse elects to receive this annuity instead of a survivor benefit to which he may be entitled, under this subchapter or another retirement system for Government employees, by reason of the remarriage; and

(2) any lump sum paid on termination of the annuity is returned to the Fund.

#### **§ 8342. Lump-sum benefits; designation of beneficiary; order of precedence**

(a) An employee or Member who is separated from the service, or is transferred to a position in which he does not continue subject to this subchapter, is entitled to be paid the lump-sum credit if his separation or transfer occurs and application for payment is filed with the Civil Service Commission at least 31 days before the earliest commencing date of any annuity for which he is eligible. The receipt of payment of the lump-sum credit by the individual voids all annuity rights under this subchapter, until he is reemployed in the service subject to this subchapter. This subsection also applies to an employee or Member separated before October 1, 1956, after completing at least 20 years of civilian service.

(b) Under regulations prescribed by the Commission, a present or former employee or Member may designate a beneficiary or beneficiaries for the purpose of this subchapter.

(c) Lump-sum benefits authorized by subsections (d)-(f) of this section shall be paid to the person or persons surviving the employee or Member and alive at the date title to the payment arises in the following order of precedence, and the payment bars recovery by any other person:

First, to the beneficiary or beneficiaries designated by the employee or Member in a signed and witnessed writing received in the Commission before his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

Second, if there is no designated beneficiary, to the widow or widower of the employee or Member.

Third, if none of the above, to the child or children of the employee or Member and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the employee or Member or the survivor of them.

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the employee or Member.

Sixth, if none of the above, to such other next of kin of the employee or Member as the Commission determines to be entitled under the laws of the domicile of the employee or Member at the date of his death.

For the purpose of this subsection, "child" includes a natural child and an adopted child, but does not include a stepchild.

(d) If an employee or Member dies—

(1) without a survivor; or

(2) with a survivor or survivors and the right of all survivors terminates before a claim for survivor annuity is filed; or if a former employee or Member not retired dies, the lump-sum credit shall be paid.

(e) If all annuity rights under this subchapter based on the service of a deceased employer or Member terminates before the total annuity paid equals the lump-sum credit, the difference shall be paid.

(f) If an annuitant dies, annuity accrued and unpaid shall be paid.

(g) Annuity accrued and unpaid on the termination, except by death, of the annuity of an annuitant or survivor annuitant shall be paid to that individual. Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person:

First, to the duly appointed executor or administrator of the estate of the survivor annuitant.

Second, if there is no executor or administrator, payment may be made, after 30 days from the date of death of the survivor annuitant, to such next of kin of the survivor annuitant as the Commission determines to be entitled under the laws of the domicile of the survivor annuitant at the date of his death.

(h) Amounts deducted and withheld from the basic pay of an employee or Member from the first day of the first month which begins after he has performed sufficient service (excluding service which the employee or Member elects to eliminate for the purpose of annuity computation under section 8339 of this title) to entitle him to the maximum annuity provided by section 8339 of this title, together with interest on the amounts at the rate of 3 percent a year compounded annually from the date of the deductions to the date of retirement or death, shall be applied toward any deposit due under section 8334 of this title, and any balance not so required is deemed a voluntary contribution for the purpose of section 8343 of this title.

(i) An employee who—

(1) is separated from the service before July 12, 1960; and  
(2) continues in the service after July 12, 1960, without break  
in service of 1 workday or more;

is entitled to the benefits of subsection (h) of this section.

**§ 8343. Additional annuities; voluntary contributions**

(a) Under regulations prescribed by the Civil Service Commission, an employee or Member may voluntarily contribute additional sums in multiples of \$25, but the total may not exceed 10 percent of his basic pay for creditable service after July 31, 1920. The voluntary contribution account in each case is the sum of unrefunded contributions, plus interest at 3 percent a year compounded annually to—

(1) the date of payment under subsection (d) of this section, separation, or transfer to a position in which he does not continue subject to this subchapter, whichever is earliest; or

(2) the commencing date fixed for a deferred annuity or date of death, whichever is earlier, in the case of an individual who is separated with title to deferred annuity and does not claim the voluntary contribution account.

(b) The voluntary contribution account is used to purchase at retirement an annuity in addition to the annuity otherwise provided. For each \$100 in the voluntary contribution account, the additional annuity consists of \$7, increased by 20 cents for each full year, if any, the employee or Member is over 55 years of age at the date of retirement.

(c) A retiring employee or Member may elect a reduced additional annuity instead of the additional annuity described by subsection (b) of this section and designate in writing an individual to receive after his death an annuity of 50 percent of his reduced additional annuity. The additional annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual designated is younger than the retiring employee or Member. However, the total reduction may not exceed 40 percent.

(d) A present or former employee or Member is entitled to be paid the voluntary contribution account if he files application for payment with the Commission before receiving an additional annuity. An individual who has been paid the voluntary contribution account may not again deposit additional sums under this section until, after a separation from the service of more than 3 calendar days, he again becomes subject to this subchapter.

(e) If a present or former employee or Member not retired dies, the voluntary contribution account is paid under section 8342(c) of this title. If all additional annuities or any right thereto based on the voluntary contribution account of a deceased employee or Member terminate before the total additional annuity paid equals the account, the difference is paid under section 8342(c) of this title.

**§ 8344. Annuities and pay on reemployment**

(a) If an annuitant receiving annuity from the Fund, except—

(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

(2) an annuitant whose annuity is based on an involuntary separation from the service other than an automatic separation; or

(3) a Member receiving annuity from the Fund; becomes employed after September 30, 1956, or on July 31, 1956, was serving, in an appointive or elective position, his service on and after the date he was or is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. If the annuitant serves on a full-time basis, except as President, for at least 1 year in employment not excluding him from coverage under section 8331(1) (i) or (ii) of this title—

(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (g), and (h) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

(B) his lump-sum credit may not be reduced by annuity paid during that employment. *If the annuitant on termination of employment is married to a spouse potentially entitled to annuity as surviving spouse under section 8341 of this title, the supplemental annuity payable under the fourth sentence of this subsection is reduced by 10 percent and the spouse is entitled to an annuity equal to 55 percent of the supplemental annuity commencing and terminating at the same times as the survivor annuity payable under section 8341 of this title, unless at the time of claiming the supplemental annuity the annuitant notifies the Civil Service Commission in writing that he does not desire his spouse to receive this annuity.*

If the described employment of the annuitant continues for at least 5 years, he may elect, instead of the benefits provided by this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. Notwithstanding the restrictions contained in section 115 of the Social Security Amendments of 1954 (68 Stat. 1087), a similar right to redetermination after deposit is applicable to an annuitant—

(i) whose annuity is based on an involuntary separation from the service; and

(ii) who is separated after July 11, 1960, following such a period of employment on a full-time basis that began before October 1, 1956.

【The employment of an annuitant under this subsection does not create an annuity for or affect the annuity of a survivor.】

(b) If a Member receiving annuity from the Fund becomes employed in an appointive or elective position, annuity payments are discontinued during the employment and resumed in the same amount on termination of the employment, except that—

(1) the retired Member or Member separated with title to immediate or deferred annuity, who serves at any time after separation as a Member in an appointive position in which he is subject to this subchapter, is entitled, if he so elects, to have his Member annuity computed or recomputed as if the service had been performed before his separation as a Member and the annuity as so computed or recomputed is effective—

(A) the day Member annuity commences; or

- (B) the day after the date of separation from the appointive position; whichever is later;
- (2) if the retired Member becomes employed after December 31, 1958, in an appointive position on an intermittent-service basis—
- (A) his annuity continues during the employment and is not increased as a result of service performed during that employment;
  - (B) retirement deductions may not be withheld from his pay;
  - (C) an amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title; and
  - (D) the amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund;
- (3) if the retired Member becomes employed after December 31, 1958, in an appointive position without pay on a full-time or substantially full-time basis, his annuity continues during the employment and is not increased as a result of service performed during the employment; and
- (4) if the retired Member takes office as Member and gives notice as provided by section 8331(2) of this title, his service as Member during that period shall be credited in determining his right to and the amount of later annuity.

This subsection does not apply to a Member appointed by the President to a position not requiring confirmation by the Senate.

